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**4. Railroads (§ 102 (1\*))—Construction of Crossings—Statute—Action for Damages—Defenses.**—If defendant railroad wishes to escape liability under Code 1904, § 1294b(2), for failure to keep an overhead bridge over its road on plaintiff's property as originally constructed in good repair, it must absolve itself from that duty by showing that it has in some lawful way been relieved of liability, by providing other proper and suitable wagonways.

[Ed. Note.—For other cases, see Railroads, Cent. Dig. § 306.\* 14 Va.-W. Va. Enc. Dig. 291; 16 Va.-W. Va. Enc. Dig. 340.]

Error to Circuit Court, Lunenburg County.

Action by J. W. Gaulling against the Virginian Railway Company. From a judgment sustaining demurrer to the declaration and dismissing the suit, plaintiff brings error. Judgment reversed, demurrer overruled, and case remanded for further proceedings.

*Geo. E. Allen*, of Lunenburg C. H., for plaintiff in error.

*G. A. Wingfield*, of Norfolk, and *H. T. Hall*, of Roanoke, for defendant in error.

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MOORMAN *v.* BOARD OF SUP'RS OF CAMPBELL COUNTY  
et al.

June 14, 1917.

[92 S. E. 833.]

**1. Execution (§ 333\*)—Return—Sufficiency.**—An execution return of "no effects," dated 2 days after the return day is a valid return within Code 1904, § 3577, providing that execution may issue on a judgment within 20 years from return day of execution on which there is a return, and providing that any return showing an execution has not been satisfied shall be a sufficient return, especially as § 901, subjecting officers failing to make returns to a fine for each month the failure continues, contemplates that the omission may be remedied after the return day.

[Ed. Note.—For other cases, see Execution, Cent. Dig. §§ 1002-1004.\* 5 Va.-W. Va. Enc. Dig. 462.]

**2. Mandamus (§ 71\*)—Return of Process.**—Mandamus will lie to compel return of process by an officer, since it is a ministerial act.

[Ed. Note.—For other cases, see Mandamus, Cent. Dig. § 133\* 9 Va.-W. Va. Enc. Dig. 527.]

**3. Execution (§ 125\*)—Levy—Time.**—An execution may not be levied after the date upon which it is returnable.

[Ed. Note.—For other cases, see Execution, Cent. Dig. §§ 280, 281.\* 5 Va.-W. Va. Enc. Dig. 450.]

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

**4. Descent and Distribution (§ 157\*)—Creditors' Rights—Subjecting Interest in Estate to Debts.**—A court of equity administering an estate may subject an heir's interest in the real and personal property to payment of a judgment upon which execution has not issued, either upon the theory that it will do complete justice, or that it may marshal the assets between the judgment creditor having a lien only upon the realty, and other creditors holding a lien upon both realty and personalty.

[Ed. Note.—For other cases, see Descent and Distribution, Cent. Dig. §§ 530-532.\* 1 Va.-W. Va. Enc. Dig. 172; 9 Va.-W. Va. Enc. Dig. 595, cited by the court.]

Appeal from Circuit Court, Campbell County.

Suit by the Board of Supervisors of Campbell County and others against Thomas B. Moorman was consolidated with a suit in which a will of defendant's brother had been partially set aside. From adverse decrees, defendant appeals. Affirmed.

*Caskie & Caskie* and *Wilson & Manson*, all of Lynchburg, for appellant.

*A. H. Light*, of Rustburg, for appellees.

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SNEAD et al. v. ATKINSON et al.

June 14, 1917.

[92 S. E. 835.]

**1. Dismissal and Nonsuit (§ 80\*)—Effect.**—Where suit to enforce a judgment lien was stricken under Code 1904, § 3312, authorizing such action where there has been no prosecution for five years, and providing that the case may be reinstated within a year, but not after, orders entered five years later, the case not having been reinstated, are void.

[Ed. Note.—For other cases, see Dismissal and Nonsuit, Cent. Dig. §§ 178-181.\* 4 Va.-W. Va. Enc. Dig. 708, 711.]

**2. Judgment (§ 855\*)—Enforcement—Equity.**—Where a suit to enforce a judgment lien was stricken under Code 1904, § 3312, authorizing such action for nonprosecution, and providing case may be reinstated within a year, a court of equity will not aid a judgment creditor in proceeding after the year for reinstatement has elapsed, where the judgment debtor has died and property proceeded against has been held over 15 years by parties acquiring it from the judgment debtor or his heirs and improvements have been made upon it.

[Ed. Note.—For other cases, see Judgment, Cent. Dig. §§ 1571-1576.\* 8 Va.-W. Va. Enc. Dig. 623.]

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.